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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2036

DOMINIQUE J. BOWLES
26738 Columbia Street
Hemet, CA 92544

A C C U S A T I O N

Respiratory Care Practitioner
License No. 17959

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about May 31, 1995, the Respiratory Care Board issued Respiratory Care Practitioner License No. 17959 to DOMINIQUE J. BOWLES (Respondent). The Respiratory Care Practitioner License expired on January 31, 2005, and has not been renewed.

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4. Section 3710 of the Code states, in pertinent part: “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

6. Section 3750 of the Code states, in pertinent part:

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

“(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).

7. Section 3750.5 of the Code states, in pertinent part:

"In addition to any other grounds specified in this chapter, the board may deny, suspend, or revoke the license of any applicant or license holder who has done any of the following:

"(a) Obtained or possessed in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administered to himself or herself, or furnished or administered to another, any controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with section 4015) of Chapter 9.

“ . . .

"(c) Applied for employment or worked in any health care profession or environment while under the influence of alcohol.

“(d) Been convicted of a criminal offense involving the consumption or self-administration of any of the substances described in subdivisions (a) and (b), or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a), in which event the record of the conviction is conclusive evidence thereof.

• • •

8. California Code of Regulations (CCR), title 16, section 1399.370, states:

“For the purposes of denial, suspension, or revocation of a license, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license or in a manner inconsistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

“(a) Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation of or conspiring to violate any provision or term of the Act.

“ ”

COST RECOVERY

9. Section 3753.5, subdivision (a) of the Code states, in pertinent part:

"In any order issued in resolution of a disciplinary proceeding before the board, the

1 board or the administrative law judge may direct any practitioner or applicant found to have committed
2 a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and
3 prosecution of the case. . . ."

4 10. Section 3753.7 of the Code states:

5 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall include
6 attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing,
7 and service fees."

8 11. Section 3753.1 of the Code states, in pertinent part:

9 "(a) An administrative disciplinary decision imposing terms of probation may include,
10 among other things, a requirement that the licensee-probationer pay the monetary costs associated with
11 monitoring the probation. "

12 FIRST CAUSE FOR DISCIPLINE

13 (Conviction of a Crime)

14 12. Respondent is subject to disciplinary action under Code section 3750(d),
15 3750(g), and CCR, title 16, section 1399.370(a), in that he was convicted of crimes substantially
16 related to the qualifications, functions, or duties of a respiratory care practitioner. The
17 circumstances are as follows:

18 **January 12, 2006 - Conviction**

19 A.. On or about January 12, 2006, in the case entitled *The*
20 *People of the State of California v. Dominique James Bowles*, Case No.
21 SWF012980, before the Superior of California, County of Riverside, Respondent
22 was convicted on his own guilty plea of one count of driving a vehicle while under
23 the influence of drugs and alcohol in violation of Vehicle Code section 23103(a)
24 and one count of resisting arrest a violation of Penal Code section 148. As a result
25 of the conviction, Respondent was granted summary probation for the period of 36
26 months with terms and conditions.

27 B. The circumstances of the conviction are as follows: On or
28 about August 4, 2005, Respondent used his vehicle to chase a vehicle occupied by

1 a woman and her two-year old son. The woman and her son were complete
2 strangers to Respondent. As he chased the other vehicle, Respondent waved a
3 magazine containing pictures of girls in bikinis at the woman, blew kisses at her,
4 and yelled at her to pull over. Respondent "drove circles around" the woman in
5 the other vehicle - slowing down when she did, speeding up when she did, and
6 weaving in and out of traffic to be directly in front or behind or beside her vehicle.
7 As he chased the woman's vehicle, Respondent cut off other vehicles and drove on
8 the dirt shoulder in an attempt to catch up and to stay close to the woman's vehicle.
9 At one time during the chase, Respondent abruptly pulled in front of the woman's
10 vehicle and slammed on the brakes causing the front end of the woman's vehicle to
11 go under the rear of Respondent's vehicle. The Riverside County Sheriff's
12 Department responded. Upon contact, Respondent became violent and
13 uncooperative with the officer. Respondent was subsequently arrested. He
14 admitted to the officer he had been using methamphetamine and drinking alcohol.

15 C. On or about August 8, 2005, a Felony Complaint was filed
16 in Superior Court of California, County of Riverside, charging Respondent with
17 one count of assault with a weapon likely to produce great bodily injury in violation
18 of Penal Code section 245(a)(1) [Count 1], one count of vandalism greater than
19 \$400 in violation of Penal Code section 594 (b)(1) [Count 2], one count of wilful
20 harm or injury to a child; endangering person/health in violation of Penal Code
21 section 273a(a) [Count 3], one count of driving under the influence of an alcoholic
22 beverage and a drug and under their combined influence in violation of Vehicle
23 Code section 23152(a) [Count 4], and one count of resisting arrest in violation of
24 Penal Code section 148 [Count 5].

25 D. On or about January 12, 2006, the Information was orally
26 amended to add Count 6 reckless driving in violation of Vehicle Code section
27 23103(a).

28 **April 7, 2006 - Conviction**

1 E. On or about April 7, 2006, in the case entitled *The People of*
2 *the State of California v. Dominique James Bowles*, Case No. SWF015913 before
3 the Superior Court of California, County of Riverside, Respondent was convicted
4 on his own guilty plea of one felony count of possessing controlled substances in
5 violation of Health and Safety Code section 11377(a). As a result of the
6 conviction, Respondent was sentenced to formal probation for the period of 36
7 months with terms and conditions.

8 F. On or about April 4, 2006, Respondent was detained and arrested
9 for trespassing by the Soboba Casino Security Officer. Riverside County Sheriff's
10 Department was notified of the arrest. The responding officer observed
11 Respondent showed symptoms of being under the influence of a controlled
12 substance. He searched Respondent and found a plastic container inside his jacket
13 pocket. Inside the container was a crystal like substance which was tested using a
14 NIK test kit, and it gave a positive reaction for methamphetamine. Respondent was
15 subsequently arrested.

16 G. On or about April 6, 2006, a Felony Complaint was filed in
17 Riverside County Superior Court, charging Respondent with one felony count of
18 possessing a controlled substance, to wit: methamphetamine, in violation of Health
19 and Safety Code section 11377(a) [Count 1] and one count of under the influence
20 of a controlled substance in violation of Health and Safety Code section 11550(a)
21 [Count 2].

22 SECOND CAUSE FOR DISCIPLINE

23 (Possession of a Controlled Substance)

24 13. Respondent is further subject to disciplinary action under Code sections
25 3750.5(a), 3750(g), and CCR, title 16, section 1399.370(a), in that he possessed a controlled
26 substance, to wit: methamphetamine, as more particularly described in paragraph 12, above, which
27 is incorporated by reference as if fully set forth herein.
28

1 THIRD CAUSE FOR DISCIPLINE

2 (Conviction of Possession of a Controlled Substance)

3 14. Respondent is further subject to disciplinary action under Code sections
4 3750.5(d), 3750(g), and CCR, title 16, section 1399.370(a), in that he was convicted of possessing
5 a controlled substance, to wit: methamphetamine, as more particularly described in paragraphs 12
6 and 13, above, which are incorporated by reference as if fully set forth herein.

7 FOURTH CAUSE FOR DISCIPLINE

8 (Working as a RCP While Under the Influence of Alcohol)

9 15. Respondent is further subject to disciplinary action under Code section
10 3750.5(c), in that he arrived to work at Totally Kids Specialty Hospital under the influence of
11 alcohol. The circumstances are as follows: On or about August 8, 2004, Respondent arrived to
12 work two hours late. Upon arrival, Respondent was seen stumbling in the hallway. He smelled
13 of alcohol and displayed symptoms of being intoxicated. He told staff members that he had been
14 at a party the night before and did not return home until 2:00 a.m., and was still hung over.
15 Instead of attending to his respiratory care duties, Respondent fell asleep in the staff members'
16 facility family room. At about 10:00 a.m., the charge respiratory care practitioner found
17 Respondent asleep, woke him up and told him to go home. Respondent was subsequently
18 terminated for being the under the influence of alcohol and sleeping on duty.

19 PRAYER

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein
21 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

- 22 1. Revoking or suspending Respiratory Care Practitioner License No. 17959,
23 issued to DOMINIQUE J. BOWLES;
- 24 2. Ordering Dominique J. Bowles to pay the Respiratory Care Board the costs
25 of the investigation and enforcement of this case, and if placed on probation, the costs of probation
26 monitoring;

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3. Taking such other and further action as deemed necessary and proper.

DATED: June 29, 2006

Original signed by Liane Zimmerman for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant